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Oliver O. Stanchfield

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NOVAK, DRUCE + QUIGG L.L.P. - PERGO

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EXAMINER

PLUMMER, ELIZABETH A

ART UNIT

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3635

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/748,852	Applicant(s) STANCHFIELD, OLIVER O.	
	Examiner ELIZABETH A. PLUMMER	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7, 8, 10, 12-16 and 20-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 7, 8, 10, 12-16 and 20-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's amendments and arguments received have been entered and considered. Claim 11 has been canceled. An examination of pending claims 2-5, 7, 8, 10, 12-16 and 20-33 is herein presented.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4, 2, 5, 7, 10, 12, 13, 25, and 31 rejected under 35 U.S.C. 103(a) as being unpatentable over Pamplin (US Publication 2004/0060251) in view of Kornfalt et al. (US Patent 6,517,935).

a. Regarding claim 4, Pamplin discloses a wood-based reversible molding (paragraph 27) (26) comprising a core (Fig. 3), said core being shaped as a wall base molding, said shaped core having a plurality of decorative faces (34) affixed to the core (page 3, paragraph 32) wherein at least two of said faces differ in at least one property selected from the group consisting of texture, design, pattern and color (page 3, paragraph 32), wherein said faces have the same shape (Fig. 2,3,4) and each of the faces can be covered with a laminate of wallpaper (Fig. 3; page 2, paragraph 32) and orientation of the core against a wall will expose at least one but not two of said faces, wherein at least one decorative faces comprise a printed decor paper (page 2, paragraph 31). While

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Pamplin does not disclose that the paper is covered with an overlay of a-cellulose, it is notoriously well known in the art that a printed décor paper can comprise an overlay of a-cellulose. For example, Kornfalt et al. teaches a molding with décor paper having an overlay of a-cellulose in order to protect the molding from abrasion (column 2, lines 9-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pamplin to include an overlay of a-cellulose, such as taught by Kornfalt et al., in order to better protect the molding.

b. Regarding claim 2, Pamplin in view of Kornfalt et al. discloses the invention as claimed except for the molding comprises a wood product selected from the group consisting of particle board, MDF, HDF and veneered lumber. However, it would have been a matter of obvious design choice to form the molding out of a wood product such as particle board, MDF, HDF or veneered lumber, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

c. Regarding claim 5, at least one decorative face comprises a laminate (Fig. 3; page 2, paragraph 32).

d. Regarding claim 7, each of said faces is in the shape of a wall base molding (paragraph 27).

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e. Regarding claim 10, Pamplin discloses that the molding can be used anywhere on a wall, which inherently includes along a floor and wall joint (paragraph 27).

f. Regarding claim 12, Pamplin in view of Kornfalt et al. discloses the invention as claimed except for the floor being a laminate floor. However, it would have been a matter of obvious design choice to form the floor out of a laminate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

g. Regarding claim 13, Pamplin in view of Kornfalt et al. discloses the invention as claimed except for the wall comprising a laminate wall panel. However, it would have been a matter of obvious design choice to form the wall panel out of a laminate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

h. Regarding claim 25, Pamplin in view of Kornfalt et al. discloses the invention as claimed except for the molding wood based core comprises a material selected from the group consisting of natural wood and veneered lumber. However, it would have been a matter of obvious design choice to form the core out of a natural wood or veneered lumber, since it has been held to be within the general skill of a worker in the art to select a known material on the

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basis of its suitability for the intended use as a matter of obvious design choice.

In re Leshin, 125 USPQ 416.

i. Regarding claim 26, each of said faces can differ from each other of said faces (page 3, paragraph 32).

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pamplin (US Publication 2004/0060251) in view of Kornfalt et al. (US Patent 6,517,935) as applied to claim 4 above, and further in view of Lamont et al. (US Patent 5,711,123). Regarding claim 3, Pamplin in view of Kornfalt et al. discloses the invention as claimed except for each decorative face comprising a curved surface. However, it is well known in the art that moldings can comprise a curved surface. For example, Lamont et al. teaches a molding (4) having a plurality of decorative faces each having the same shape (Fig. 3; column 4, lines 1-30), wherein orientation of the molding against a wall will expose at least one but not two of said faces and each of the decorative faces can comprise a curved surface (Fig. 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pamplin in view of Kornfalt et al. to have the decorative faces comprise a curved surface, such as taught by Lamont et al., in order to create a more decorative design. Furthermore, it would have been a matter of obvious design choice to form the faces as comprising curved surfaces, as such a modification would have involved a mere change in shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1966).

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4. Claims 4, 8 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sumner (GB 2,141,457 A) in view of Pamplin (US Publication 2004.0060251) and Kornfalt et al. (US Patent 6,517,935).

a. Regarding claim 4, Sumner discloses a reversible molding (12) having a plurality of decorative faces (left side, right side), wherein the faces have the same shape (Fig. 1) and the molding can be oriented against a wall to expose at least one but not two of said faces. While Sumner does not specifically disclose that the molding is a wood-based molding with a wood-based core, and the plurality of decorative faces are affixed to a core and differ by texture, design, pattern or color and independently comprise foil, laminate, veneer, paint, stain or clear protective material and wherein at least one of the decorative faces comprise a printed décor paper with an overlay of a-cellulose, it is notoriously well known in the art that a molding can comprise a wood-based core with multiple faces that can have that a plurality of decorative faces which differ by texture, design, pattern or color and independently comprise foil, laminate, veneer, paint, stain or clear protective material affixed to the core, wherein at least one of the decorative faces comprise a printed décor paper with an overlay of a-cellulose. For example, Pamplin discloses a reversible molding (26) having a wood-based core (paragraph 27), a plurality of decorative faces (34) affixed to the core, wherein at least two of said faces differ in at least one property selected from the group consisting of texture, design, pattern and color (page 3, paragraph 32), wherein said faces have the same shape (Fig. 2,3,4) and each of

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the faces can be covered with a laminate of wallpaper (Fig. 3; page 2, paragraph 32) in order to create multiple decorative designs, and at least one of the decorative faces comprise a printed décor paper (page 2, paragraph 31). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sumner to have a molding comprising a wood-based core with at least two of the faces affixed to the core, the faces differing in at least one property selected from texture, design, pattern and color, wherein each of the faces independently comprises foil, laminate, veneer, paint, stain or clear protective material, such as taught by Pamplin, in order to create more decorative designs. Furthermore, while Sumner in view of Pamplin is silent on whether an overlay of a-cellulose is on the printed decor paper, it is notoriously well known in the art that a printed décor paper can comprise an overlay of a-cellulose. For example, Kornfalt et al. teaches a molding with décor paper having an overlay of a-cellulose in order to protect the molding from abrasion (column 2, lines 9-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sumner in view Pamplin to include an overlay of a-cellulose, such as taught by Kornfalt et al., in order to better protect the molding.

- b. Regarding claim 8, each of said faces is in the form of a base shoe (Fig. 1).
- c. Regarding claim 30, Sumner in view of Pamplin teaches the invention as claimed except for each of the faces being in the form of a quarter round.

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However, It would have been a matter of obvious design choice each face as a quarter round, as such a modification would have involved a mere change in shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1966).

5. Claims 20, 27 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pamplin (US Publication 2004/0060251).

a. Regarding claim 20, Pamplin discloses a method of inherently reducing molding inventories comprising offering a wall base molding comprising a plurality of decorative faces (34) affixed to the wood-based core (paragraph 27) of the molding such that rotation of the core (flipping it over) will expose at least one of the decorative faces wherein at least two of said faces differ in at least one property, including texture, design, pattern and color (page 3, paragraph 32), and each of said faces independently comprises a laminate (Fig. 3; page 2, paragraph 32). While Pamplin does not disclose that the molding is necessarily offered to a purchaser of wall base, shoe or quarter round molding inventories and then sold to the purchaser, it is notoriously well known in the art the moldings can be sold to a purchaser of molding inventories.

b. Regarding claim 27, Pamplin discloses the invention as claimed except for the molding wood based core comprises a material selected from the group consisting of natural wood and veneered lumber. However, it would have been a matter of obvious design choice to form the core out of a natural wood or

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veneered lumber, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

c. Regarding claim 33, each of said faces can differ from each other of said faces (page 3, paragraph 32).

6. Claims 14-16, 20-24, 26, 28, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ford (GB 2,096,665 A) in view of Pamplin (US Publication 2004/0060251).

a. Regarding claim 14, Ford discloses a reversible wall base molding (5) having a plurality of faces (left side, right side) (abstract) wherein at least two of said faces different in shape (abstract; Fig. 2,4), and wherein when the molding is oriented against a wall at least one but not two of the faces will be exposed. Ford does not disclose that the faces are affixed to a wood-based core and also differ in at least one additional property consisting of texture, design, pattern and color, and each of the faces independently comprise foil, paint, clear protective material, stain, laminate or veneer. However, it is notoriously well known in the art that a reversible molding can have faces which are affixed to a wood-based core and differ in texture, design, pattern, or color, the faces comprising foil, paint, clear protective material, stain, laminate or veneer. For example, Pamplin teaches a reversible molding (26) having a plurality of decorative faces (34) affixed to a wood-based core (paragraph 27), wherein at least two of the faces differ in texture, design, pattern and color (page 3, paragraph 32) and comprise a

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laminate (Fig. 3; page 2, paragraph 32), in order to create more aesthetically pleasing designs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ford to include faces differing in texture, design, pattern or color and comprising a laminate, such as taught by Pamplin, in order to create more varied and pleasing molding designs.

b. Regarding claim 15, Ford in view of Pamplin discloses the invention as claimed except for the core of the reversible molding comprising particle board, MDF or HDF. However, it would have been a matter of obvious design choice to form the core of the molding out of a wood product such as particle board, MDF, or HDF, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

c. Regarding claims 16 and 21, Ford in view of Pamplin discloses the invention as claimed except for each of the faces comprising a foil. However, it would have been a matter of obvious design choice to form the faces comprising foil, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

d. Regarding claim 20, Ford discloses a method of inherently reducing molding inventories comprising offering a molding comprising a plurality of decorative faces (28). Ford does not disclose that at least two of said faces differ in at least one property, including texture, design, pattern and color (page 3,

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paragraph 32), and each of said faces independently comprises a laminate (Fig. 3; page 2, paragraph 32) and the core is wood-based. However, it is notoriously well known in the art that a reversible molding can have faces which differ in texture, design, pattern, or color, the faces independently comprising foil, paint, clear protective material, stain, laminate or veneer and a wood-based core. For example, Pamplin teaches a reversible molding (26) having a plurality of decorative faces (28) wherein at least two of the faces differ in texture, design, pattern and color (page 3, paragraph 32) and comprise a laminate (Fig. 3; page 2, paragraph 32) and a wood based core (paragraph 27), in order to create more aesthetically pleasing designs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ford to include faces differing in texture, design, pattern or color and comprising a laminate and a wood-based core, such as taught by Pamplin, in order to create more varied and pleasing molding designs. While Ford also does not disclose that the molding is offered to a purchaser of molding inventories and then sold to the purchaser, it is notoriously well known in the art the moldings can be sold to a purchaser of molding inventories.

e. Regarding claim 22, Ford further discloses at least one face is in the shape of a wall base molding (Fig. 2,4).

f. Regarding claims 23 and 24, Ford in view of Pamplin discloses the invention as claimed except for one of the faces being in the shape of a quarter round or base shoe. However, It would have been a matter of obvious design

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choice at least one face as a quarter round or base shoe, as such a modification would have involved a mere change in shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1966).

g. Regarding claim 26, Ford in view of Pamplin discloses the invention as claimed except for the core of the reversible molding comprising natural wood or veneered lumber. However, it would have been a matter of obvious design choice to form the core of the molding out of natural wood or veneered lumber, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

h. Regarding claim 28, at least one face comprises a curved surface (Fig. 2,4).

i. Regarding claim 29, Ford further discloses that the at least one of the plurality of decorative surfaces comprises a curved surface (Fig. 2,4).

j. Regarding claim 32, each of said faces differs from each other of said faces (Fig. 2,4).

Response to Arguments

7. Applicant's arguments filed 04/08/2009 have been fully considered but they are not persuasive. Regarding applicant's argument that decorative boards or assemblies for use with a wall and having a pattern have nothing to do with moldings, the decorative board or assembly is a type of molding. In particular, the molding of Pamplin

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can be considered a wall base molding because it can be used on a wall. Regarding arguments that Summer is no reversible, it obviously is inherently reversible because it can be removed and therefore flipped around. Regarding arguments that Summer is not wood-based, the above rejection has been modified to show that making a wood based core is notoriously well known in the art and in fact the choice of a wood-based core would merely be a case of a simple engineering design choice. Also, the shape of the molding is inherently either a wall base molding (when used direct against the wall) or a shoe molding, when used as a molding that is placed at the bottom of another molding. Regarding applicant's arguments that inventory is not inherently reduced by having reversible moldings, by having a molding with two different sides, less moldings would be necessary to create the same amount of different decorative designs. This inherently reduces the amount of inventory necessary. While applicant argues continues to argue that no reference is cited regarding different decorative faces, Pamplin clearly states that each side can be decorated differently.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH A. PLUMMER whose telephone number is (571)272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Jeanette E Chapman/
Primary Examiner, Art Unit 3633

/E. A. P./

Examiner, Art Unit 3635